

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

M.S.G.,

Plaintiff,

-v-

DAVID L. NEAL et al.,

Defendants.

23-CV-9859 (JMF)

NOTICE OF
CONFERENCE

JESSE M. FURMAN, United States District Judge:

It is hereby ORDERED that counsel for all parties appear for an **in-person** conference with the Court on **November 15, 2023 at 2:00 p.m.** in **Courtroom 1105** of the Thurgood Marshall Courthouse, 40 Centre Street, New York, NY. Counsel must confer in advance of the conference and submit a joint letter, no later than **two business days prior to the conference**, indicating whether the conference is necessary and addressing how the Court should handle this case. If counsel do not believe a conference is required, and that briefing is appropriate, counsel should propose a briefing schedule (expedited or otherwise) in the joint letter.

Counsel should address in the letter — and be prepared to address at the conference, if it is held — whether the Complaint should be treated as a petition for the writ of habeas corpus pursuant to 28 U.S. Code § 2241. *See, e.g., Manning v. United States Dep't of Just.*, No. 22-CV-1367 (JPC), 2023 WL 2118083, at *1 (S.D.N.Y. Feb. 17, 2023) (citing cases for the proposition that where a party seeks relief based on the fact or duration of confinement, the sole federal remedy is the writ of habeas corpus). Further, counsel should be prepared to address whether jurisdiction and venue are proper in the Southern District given that Plaintiff is currently in custody in Krome North Service Processing Center in Miami, Florida, ECF No. 1, ¶ 15, and there is no allegation in the Complaint that Plaintiff was present in this District on the date of filing, *see Singh v. Holder*, No. 12-CV-4731 (JMF), 2012 WL 5878677 (S.D.N.Y. Nov. 21, 2012) (holding that the “immediate custodian” rule generally applies to habeas proceedings challenging the lawfulness of immigration detention pending removal); *compare also, e.g., Golding v. Sessions*, No. 18-CV-3036 (RJS), 2018 WL 6444400, at *3 (S.D.N.Y. Dec. 6, 2018) (“[E]ven if the Attorney General or an ICE employee is in some way ultimately responsible for Petitioner’s detention, the person with day-to-day control over Petitioner (at the time of filing) was the warden of the Bergen County Jail. Consequently, the warden of the Bergen County Jail is the proper respondent here.”), *with Calderon v. Sessions*, No. 18-CV-5222 (PAC), 2018 WL 3584704, at *2 (S.D.N.Y. July 24, 2018) (“[W]hen a facility detains a petitioner pursuant to a service agreement with a governmental agency, proper respondents to a habeas petition are, as here, the governmental agency and its supervisory officials (*i.e.*, legal custodians).”), and *Calderon v. Sessions*, 330 F. Supp. 3d 944, 951-54 (S.D.N.Y. 2018) (full opinion).

All counsel are required to register promptly as filing users on ECF. **All counsel must familiarize themselves with the Court's Individual Rules, which are available at <http://nysd.uscourts.gov/judge/Furman>.** Absent leave of Court obtained by letter-motion filed before the conference, all pretrial conferences must be attended by the attorney who will serve as principal trial counsel.


If this case has been settled or otherwise terminated, counsel are not required to appear, provided that a stipulation of discontinuance, voluntary dismissal, or other proof of termination is filed on the docket prior to the date of the conference, using the appropriate ECF Filing Event. See SDNY ECF Rules & Instructions §§ 13.17-13.19 & App'x A, available at http://nysd.uscourts.gov/ecf_filing.php.

In accordance with the Court's Individual Rules and Practices, requests for an extension or adjournment may be made only by letter-motion filed on ECF and must be received at least 48 hours before the deadline or conference. The written submission must state (1) the original date(s); (2) the number of previous requests for adjournment or extension; (3) whether these previous requests were granted or denied; (4) whether the adversary consents and, if not, the reasons given by the adversary for refusing to consent; and (5) the date of the parties' next scheduled appearance before the Court. Unless counsel are notified that the conference has been adjourned, it will be held as scheduled.

No later than November 9, 2023, Plaintiff's counsel is directed (1) to serve Defendants with a copy of the Complaint and accompanying papers, along with a copy of this Order, by overnight mail, and (2) to promptly file proof of such service on the docket. Counsel for Defendants shall promptly enter notices of appearance.

SO ORDERED.

Dated: November 8, 2023
New York, New York



JESSE M. FURMAN
United States District Judge